

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

In Re:

Jane Bullock Parker

Case No. 09-09335-8-SWH

Chapter 13

Social Security No.xxx-xx-5061

Address:9404 South Mere Court, Raleigh, NC 27615-

Debtor

OBJECTION TO CLAIM

NOW COMES the Debtor above-named, through counsel, who respectfully objects to proof of claim # 4 filed by the creditor eCAST Settlement Corporation, assignee of Chase Bank USA, N.A. (hereinafter "eCast") and dated December 31, 2009, for the following reasons:

1. The Proof of Claim filed by eCast does not, in contravention of Federal Bankruptcy Rule 3001(c), include a copy of the writing upon which is based or a statement of the circumstances under which such writing was lost or destroyed.
2. Accordingly, pursuant to In re Andrews, 394 B.R. 384, 388 (Bankr. E.D.N.C. 2008), this claim should not be considered presumptively valid.
3. Further, pursuant to In re Forrest, Case No. 06-01967-8-RDD (Bankr. E.D.N.C. May 22, 2009) and Unifund CCR Partners v Dover, 681 S.E.2d 565, 2009 WL 2180672 (N.C.App. July 21, 2009) the Proof of Claim does not satisfy the requirements for an account stated, namely that the Proof of Claim does not include an "itemization of credit extended to cover individual transactions." Id.
4. Further, the Proof of Claim contains no verification that either eCast or Thomas A. Lee, who prepared this Proof of Claim is "in any way connected to the establishment or maintenance of the alleged credit card account..." Id.
5. Lastly, as this Proof of Claim was filed after October 1, 2009 and as eCast is, upon information and belief, a "debt buyer", it is, pursuant to 11 U.S.C. § 502(b), subject to the requirements of N.C.G.S. § 58-70-115(5). This requires that American InforSource, which is, upon information and belief and pursuant to N.C.G.S. § 58-70-15(b)(4), a 'debt buyer', provide "reasonable verification" of the amount allegedly owed by the Debtors, with "reasonable verification" being defined to "include documentation of the name of the original creditor, the name and address of the debtor as appearing on the original creditors's records, the original consumer account number,a copy of the contract or other document evidencing the consumer debt, and an itemized accounting of the amount claimed to be owed, including all fees and charges."

6. It is conceded that the Proof of Claim contains the name of the original creditor, the name and address of the debtor as appearing on the original creditor's records, a redacted consumer account number. The Proof of Claim does not, however, include either a copy of the contract or other document evidencing the consumer debt or an itemized accounting of the amount claimed to be owed, including all fees and charges.
7. As such, not only should the claim of eCast be disallowed, but it could be found in violation of the Consumer Economic Protection Act of 2009 and subject to actual damages, including attorneys' fees, and civil penalties of not less than \$500.00 and not more than \$4,000.00. The Debtors are not currently seeking such an award, but do not waive their right to do so should eCast contest this Objection.

WHEREFORE, the Debtor prays that the Court enter an Order disallowing the claim in its entirety and that the Court preclude eCast from amending its claim without first seeking leave to do so.

Dated: November 23, 2010

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s John T. Orcutt

John T. Orcutt
NC Bar # 10212
6616-203 Six Forks Road
Raleigh, N.C. 27615
(919) 847-9750

CERTIFICATE OF SERVICE

I, Koury L. Hicks, certify under penalty of perjury that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age and that on November 23, 2010. I served copies of the foregoing **NOTICE OF OBJECTION** and **OBJECTION TO CLAIM** by regular first-class U.S. mail, addressed to the following parties:

eCAST Settlement Corporation,
assignee of Chase Bank USA, N.A.
ATTN: MANAGING AGENT
PO Box 35480
Newark, NJ 07193-5480

eCast Settlement Corporation
c/o Becket & Lee LLP
16 General Warren Boulevard
Malvern, PA 19355-1245

and by automatic electronic noticing upon the following Trustee:

John F. Logan
Chapter 13 Trustee

/s Koury L. Hicks

Koury L. Hicks

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Debtor

NOTICE OF OBJECTION TO CLAIM

The Debtor has filed an objection to your claim in this bankruptcy case.

Your claim may be reduced, modified, or eliminated. You should read these papers carefully and discuss them with your attorney, if you have one.

If you do not want the court to eliminate or change your claim, then on or before December 23, 2010, you or your attorney must file with the Court, pursuant to Local Rule 9014-1, a written response, an answer explaining your position, and a request for hearing at: Clerk, U.S. Bankruptcy Court, Post Office Box 1441, Raleigh, N.C. 27602-1441.

If you mail your response to the court for filing, you must mail it early enough so that court will **receive** it on or before the date stated above. **You must also mail a copy to the following:**

John T. Orcutt Attorney 6616-203 Six Forks Rd. Raleigh, N.C. 27615	John F. Logan CHAPTER 13 TRUSTEE P.O. Box 61039 Raleigh, N.C. 27661-1039
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If a response and a request for hearing is filed in writing on or before the date set above, a hearing will be conducted on the objection to claim at a date, time and place to be later set and all parties will be notified accordingly. If you or your attorney do not take these steps, the court may decide that you do not oppose the objection to your claim.

Dated: November 23, 2010

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s John T. Orcutt

John T. Orcutt
Attorney for Debtor
6616-203 Six Forks Rd.
Raleigh, N.C. 27615
(919) 847-9750